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1 **J. RUSSELL CUNNINGHAM, State Bar #130578**  
2 **ERIC R. GASMAN, State Bar #260639**  
3 **DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
4 1830 15<sup>th</sup> Street  
5 Sacramento, California 95811  
6 Telephone: (916) 443-2051  
7 Facsimile: (916) 443-2651

8 Attorneys for Richard J. Hanf  
9 Chapter 7 Trustee

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11 **UNITED STATES BANKRUPTCY COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**  
13 **SACRAMENTO DIVISION**

14 In re:

15 **ERNESTO DIAZ,**  
16 Debtor.

Case No. 07-28426-C-7  
Chapter 7

DCN: DNL-18

Date: August 3, 2010  
Time: 9:30 a.m.  
Place: Dept. C, Courtroom 35  
501 I Street, 6<sup>th</sup> Floor  
Sacramento, CA. 95814

17 **MOTION FOR TURNOVER OF MEXICO PROPERTY**

18 Chapter 7 Trustee RICHARD J. HANF, ("Trustee"), hereby moves for an order compelling  
19 the debtor, ERNESTO DIAZ, to turnover to Trustee real property consisting of a 30' x 200' lot and  
20 improvements located in the Santa Marta Rancho, Jalostotilan, Jalisco, Estados Unidos de Mexico  
21 ("Mexico Property"), and related in rem rights, including the escritura publica ("Deed"). In support  
22 thereof, it is respectfully represented that:

23 1. The above-captioned bankruptcy case was commenced on October 10, 2007 by the  
24 filing of a voluntary Chapter 11 petition, and converted to Chapter 7 on October 14, 2008. Trustee  
25 has served as trustee for the debtor's estate since August 5, 2008.

26 2. On July 30, 2009, the debtor's discharge was denied, based on repeated failure and  
27 refusal to abide by his duties of disclosure and cooperation.

28 3. From November 2, 2009, based on disobedience of an order for turnover of estate

1 property, the debtor was placed into custody until the contempt was purged five days later.

2 4. On the petition date, the debtor owned, but failed to schedule, the Mexico Property  
3 located near Guadalajara, which was purchased about 8 years ago for \$50,000 and subsequently fixed  
4 up.

5 5. On April 26, 2010, Trustee sent a letter to the debtor's counsel demanding turnover of  
6 the Mexico Property and Deed by May 5, 2010.

7 6. To date, there has been no response from the debtor or his counsel.

8 **TURNOVER IS APPROPRIATE**

9 The Mexico Property and Deed are property of the debtor's bankruptcy estate. 11 U.S.C.  
10 Section 541(a)(1). Since these assets are not of inconsequential value or benefit to the estate, the  
11 debtors and their agents are obligated to deliver to Trustee, and account for, such property or the  
12 value of such property. 11 U.S.C. Section 542(a).

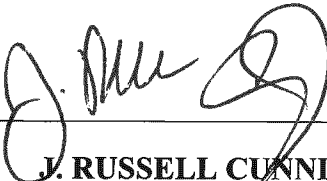
13 **TURNOVER IS NECESSARY**

14 Trustee has a duty to preserve estate assets. The Mexico Property and Deed are extremely  
15 valuable.

16 WHEREFORE, Trustee prays that the motion be granted, and for such other and further relief  
17 as is necessary and proper.

18  
19 Dated: June 28, 2010

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**

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21 By:   
22 **J. RUSSELL CUNNINGHAM**  
23 Attorneys for Richard J. Hanf, Chapter 7 Trustee  
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